

(c) Provides 24-hour nursing service in accordance with Sec. 1861(e)(5) of the Act;

(d) If it is a U.S. hospital, is licensed, or approved as meeting the standards for licensing, by the State or local licensing agency; and

(e) If it is a foreign hospital, is licensed, or approved as meeting the standard for licensing, by the appropriate foreign licensing agency, and for purposes of furnishing nonemergency services to U.S. residents, is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or by a foreign program under standards that CMS finds to be equivalent to those of JCAHO.

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 51 FR 41338, Nov. 14, 1986; 71 FR 48135, Aug. 18, 2006]

#### § 409.5 General description of benefits.

Hospital insurance (Part A of Medicare) helps pay for inpatient hospital or inpatient CAH services and posthospital SNF care. It also pays for home health services and hospice care. There are limitations on the number of days of care that Medicare can pay for and there are deductible and coinsurance amounts for which the beneficiary is responsible. For each type of service, certain conditions must be met as specified in the pertinent sections of this subpart and in part 418 of this chapter regarding hospice care. Conditions for payment of emergency inpatient services furnished by a nonparticipating U.S. hospital and for services furnished in a foreign country are set forth in subparts G and H of part 424 of this chapter.

[71 FR 48135, Aug. 18, 2006]

### Subpart B—Inpatient Hospital Services and Inpatient Critical Access Hospital Services

#### § 409.10 Included services.

(a) Subject to the conditions, limitations, and exceptions set forth in this subpart, the term “inpatient hospital or inpatient CAH services” means the following services furnished to an inpatient of a participating hospital or of a participating CAH or, in the case of emergency services or services in for-

foreign hospitals, to an inpatient of a qualified hospital:

- (1) Bed and board.
- (2) Nursing services and other related services.
- (3) Use of hospital or CAH facilities.
- (4) Medical social services.
- (5) Drugs, biologicals, supplies, appliances, and equipment.
- (6) Certain other diagnostic or therapeutic services.
- (7) Medical or surgical services provided by certain interns or residents-in-training.
- (8) Transportation services, including transport by ambulance.

(b) *Inpatient hospital services* does not include the following types of services:

- (1) Posthospital SNF care, as described in § 409.20, furnished by a hospital or a critical access hospital that has a swing-bed approval.
- (2) Nursing facility services, described in § 440.155 of this chapter, that may be furnished as a Medicaid service under title XIX of the Act in a swing-bed hospital that has an approval to furnish nursing facility services.
- (3) Physician services that meet the requirements of § 415.102(a) of this chapter for payment on a fee schedule basis.
- (4) Physician assistant services, as defined in section 1861(s)(2)(K)(i) of the Act.
- (5) Nurse practitioner and clinical nurse specialist services, as defined in section 1861(s)(2)(K)(ii) of the Act.
- (6) Certified nurse mid-wife services, as defined in section 1861(gg) of the Act.
- (7) Qualified psychologist services, as defined in section 1861(ii) of the Act.
- (8) Services of an anesthetist, as defined in § 410.69

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 58 FR 30666, May 26, 1993; 64 FR 3648, Jan. 25, 1999; 65 FR 18535, Apr. 7, 2000]

#### § 409.11 Bed and board.

(a) *Semiprivate and ward accommodations.* Except for applicable deductible and coinsurance amounts, Medicare Part A pays in full for bed and board and semiprivate (2 to 4 beds), or ward (5 or more beds) accommodations.

(b) *Private accommodations*—(1) *Conditions for payment in full.* Except for applicable deductible and coinsurance

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amounts, Medicare Part A pays in full for a private room if—

(i) The patient's condition requires him or her to be isolated;

(ii) The hospital or CAH has no semi-private or ward accommodations; or

(iii) The hospital's or CAH's semi-private and ward accommodations are fully occupied by other patients, were so occupied at the time the patient was admitted to the hospital or CAH, respectively, for treatment of a condition that required immediate inpatient hospital or inpatient CAH care, and have been so occupied during the interval.

(2) *Period of payment.* In the situations specified in paragraph (b)(1) (i) and (iii) of this section, Medicare pays for a private room until the patient's condition no longer requires isolation or until semiprivate or ward accommodations are available.

(3) *Conditions for patient's liability.* The hospital or CAH may charge the patient the difference between its customary charge for the private room and its most prevalent charge for a semiprivate room if—

(i) None of the conditions of paragraph (b)(1) of this section is met; and

(ii) The private room was requested by the patient or a member of the family, who, at the time of the request, was informed what the hospital's or CAH's charge would be.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]

## § 409.12 Nursing and related services, medical social services; use of hospital or CAH facilities.

(a) Except as provided in paragraph (b) of this section, Medicare pays for nursing and related services, use of hospital or CAH facilities, and medical social services as inpatient hospital or inpatient CAH services only if those services are ordinarily furnished by the hospital or CAH, respectively, for the care and treatment of inpatients.

(b) *Exception.* Medicare does not pay for the services of a private duty nurse or attendant. An individual is not considered to be a private duty nurse or attendant if he or she is a hospital or

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CAH employee at the time the services are furnished.

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 58 FR 30666, 30667, May 26, 1993]

## § 409.13 Drugs and biologicals.

(a) Except as specified in paragraph (b) of this section, Medicare pays for drugs and biologicals as inpatient hospital or inpatient CAH services only if—

(1) They represent a cost to the hospital or CAH;

(2) They are ordinarily furnished by the hospital or CAH for the care and treatment of inpatients; and

(3) They are furnished to an inpatient for use in the hospital or CAH.

(b) *Exception.* Medicare pays for a limited supply of drugs for use outside the hospital or CAH if it is medically necessary to facilitate the beneficiary's departure from the hospital and required until he or she can obtain a continuing supply.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]

## § 409.14 Supplies, appliances, and equipment.

(a) Except as specified in paragraph (b) of this section, Medicare pays for supplies, appliances, and equipment as inpatient hospital or inpatient CAH services only if—

(1) They are ordinarily furnished by the hospital or CAH to inpatients; and

(2) They are furnished to inpatients for use in the hospital or CAH.

(b) *Exceptions.* Medicare pays for items to be used beyond the hospital or CAH stay if—

(1) The item is one that the beneficiary must continue to use after he or she leaves the hospital or CAH, for example, heart valves or a heart pacemaker, or

(2) The item is medically necessary to permit or facilitate the beneficiary's departure from the hospital or CAH and is required until the beneficiary can obtain a continuing supply. Tracheostomy or draining tubes are examples.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]